

## NEPA DRAFT REPORT COMMENTS

### Group 1: Addressing Delays in the Process

Recommendation 1.2: Amend NEPA to add mandatory timelines for the completion of NEPA Documents.

Add to follow 'documents': *and restoring budgets to allow BLM, USFS, and Park Service to do their work and meet the time demands.*

Beginning in the mid-1980's, budgets for BLM, USFS, and Park Service have been regularly cut annually with the result that former NEPA staff are reassigned to do other work within the agency if they want to keep a job. The result is that a once dedicated position is cut and NEPA is done by resource specialists for their own project. Staff that was hired to do one specialty job is now often doing three jobs (they are cross-trained in another resource specialty and then take on NEPA, at least in BLM this is too often the situation).

Based on over 20-years of experience conducting NEPA analysis, coordinating teams, and preparing individual sections, I can personally state that time frames can only be guidelines. Delays are more typically related to agency unrealistic time frames to meet a Washington DC director's requirements as well as to not have sufficient staff to do NEPA and their regular workload. I have worked 70-80-hour weeks for months at a time to meet an unrealistic deadline and the result is often burned out staff. Adding a time guideline may be useful for an inexperienced staff, but there are too many variables that will impact a schedule.

Recommendation 1.3: Amend NEPA to create unambiguous criteria for the use of CEs, EAs and EISs.

Some agencies (notably DOE, DOD) will often choose to minimize the appropriate NEPA action (because who wants to do NEPA?) by creatively interpreting CE language as well as processes. I applaud attempting to tighten up criteria. To give a recent example of a discussion I have been involved in, an agency has a criterion that allows for 'localized vegetation control'. The agency is interpreting this to include a prescribed burn of 150-acres over three days with a 300-ft high plume. Given the history behind how CE criteria were developed and the time frame (early 1990's) when no one did prescribed burns, I cannot interpret this criteria as other than the use of herbicides or mechanical means to cut back or kill undesirable vegetation. How could you further clarify 'localized'?

I have never had or heard of problems defining when an action warrants an EIS or an EA. I do know of instances when CEs are completed instead of EAs.

I recommend some additional language to limit use of CEs to actions that are not invasive on the environment, which was the original intent of doing an CE. Surely you cannot consider the above example in the same list of examples that may include fixing fences, transferring a property title, or painting a building. I also suggest removing CEs that appear to document routine actions such as property title transfers, or personnel actions, etc.

### Group 2: Enhancing Public Participation

Recommendation 2.1: Direct CEQ to prepare regulations giving weight to localized comments.

This recommendation awards local and biased groups that do not have national interest at heart over short-term jobs. The NEPA is a federal law to protect federal resources, not local or state-controlled agendas.

My comments on EISs in out of state areas (that I frequent) should not be weighted differently. National treasures should not be available for local groups that are often funded and affiliated with national groups with much deeper pockets for their vested interests than do I have as an individual sending in one letter. We have many regional differences in this country that often do not value the resources out their door when the result may be a cut back in jobs.

Recommendation 2.2: Amend NEPA to codify the EIS page limit set forth....

In the 1970's I took home my copy of an EIS in a box that weighed 25#. Although the project was a large undertaking (Northern Tier Pipeline Project: brought oil by tanker from Valdez to WA state then overland 1800 miles), the size of the document was burdensome. As a team member, the time to produce the document consisted of non-ending 70-hour weeks to meet an investor's schedule. I don't think 300 pages on the other hand, is adequate to address the impacts of a complex project. And, recall that an EIS is prepared for a major or high profile project. I recommend 500 pages as a standard with the ability to exceed this if warranted by extenuating circumstances. I have recommended back up documents (available by request) to enable adequate addressing of some resource requirements. These can be referenced with summaries in the main body of the text.

### Group 3: Better Involvement for State, Local and Tribal Stakeholders

Recommendation 3.1: Amend NEPA to grant Tribal, State, and local stakeholders cooperating agency status.

I agree that Tribes, which are sovereign governments, deserve cooperating status. I do not agree that States and local stakeholders should have the same status. Typically, identifying other federal, tribal, and applicable state agencies as cooperating agencies occurs early in the EIS process. I would not want to provide a blanket status to local stakeholders - which could include a company that is invested in the local town. Again, NEPA is a federal regulation not a state or local regulation. The applicable state entities are always considered for co-operating agency status.

Recommendation 3.2 Direct CEQ to prepare regulations that allow existing state environmental review process to satisfy NEPA requirements.

Disagree. Again, individual states reflect on the environment quite differently. We need to keep the NEPA a federal regulation and not allow state interventions. This is a national standard, not ever intended to be a state standard.

### Group 4: Addressing Litigation Issues

Recommendation 4.1: Amend NEPA to create a citizen suit provision.

Strongly disagree. Citizens do not have the resources that would be required. Perhaps the burden could be in part addressed to the preparer of an EIS to defend the basis for their science. All too often agencies that have not had the budgets to do adequate research rely on in-house reports 10-15 years old that were also based on research that was 10-years old at that time.

#### Group 5: Clarifying Alternative Analysis

Recommendation 5.1: Amend NEPA to require that 'reasonable alternatives' analyzed in NEPA documents be limited to those which are economically and technically feasible.

NEPA was never intended to be driven by cost. There are many costs to society that cannot be quantified once a project is put in place. How do you quantify the loss of a view to oilrigs that produce very little productive oil but result in environmental degradation? I instead propose that more emphasis should be placed on early involvement of stakeholders in developing the alternatives. Economics will be addressed at this level rather than by artificially imposing it. Stakeholders often come up with more conservative proposed alternatives than are otherwise considered.

Recommendation 5.3 : Direct CEQ to promulgate regulations to make mitigation proposals mandatory.

I thought an EIS was a legal document, hence mitigation within the document is a legal requirement. While it wouldn't hurt to actually make this as a statement, I am more in favor of a statement that suggests some kind of verification that all agreed to mitigation has been completed and agreed to as complete (by the agency).

#### Group6: Better Federal Agency Coordination

Recommendation 6.1: Direct CEQ to promulgate regulation to encourage more consultation with stakeholders.

I applaud this effort, but 'encourage' is the wrong word to use here. Encourage doesn't mean require and I believe working with stakeholders should be required. The difficulty is in getting people with jobs, families, and other activities to be and stay involved. However, the greater difficulty is changing a common federal culture that denies having any responsibility to coordinate their activities with citizens. Many agencies, and certainly the big ticket money agencies such as DOE and DOD, carry a kind of arrogance that stems from a belief that their work is so important that a citizen could not understand it, but also that they are too important to have to answer to citizens, in other words, NEPA doesn't apply to them. The research on the effectiveness of stakeholders has been around at least 8-years. Stakeholders need to become a part of the process at the earliest stage.

#### Group 7: Additional Authority for CEQ

Recommendation 7.2: Direct CEQ to control NEPA related costs.

Is this the same as managing the process by budget? How can you establish cost ceilings that would be applicable to all areas of the country and all types of projects? Will cost drive the analysis?

#### Group 9: Studies

Recommendation 9.2: CEQ study of current Federal agency NEPA staffing issues.

This will not result in any useful information. BLM, USFS, NPS no longer have NEPA staffs at the local levels because their budgets have been repeatedly cut. Do you keep a resource person or a NEPA person? Or, do you train a resource person to do NEPA as needed? The biggest issue is not NEPA, it is budgets originally tied to the land agencies that have gone to other priorities.

Federal agencies are trying to save their own jobs and will not admit to untrained personnel. How about an experienced federal agency NEPA coordinator asking at a national workshop why his contractor thinks he needs to have public involvement for an EA? This individual was not with BLM, USFS, or NPS.

Conclusions: I believe that NEPA is not the problem. It is a well-written and responsive act. The real issues are not about processing NEPA documents fast enough, but are about considering the future ramifications of our actions and are about a real lack of funding for maintaining a dedicated staff with resources and management commitment in the agencies that are underfunded. It is about all the deals that are brokered between big business and big government that a tough look at through the NEPA process just might jeopardize.

My first NEPA project was working for Bonneville Power Administration on a one-year project in 1975. At that time, engineers all knew the shortest way to get from A to B, and it certainly didn't include involving the public. By the mid-1980's, these engineers were discovering that ending up in court was a waste of time and expensive and that maybe it was a more effective use of their time to consider the environmental laws, as well as public input. Today, NEPA is still being blamed. But the reality is that people want what they want and when they want it. Due process in evaluating alternatives and consideration of the future takes time.

I have worked for federal agencies, private consulting, and had my own company doing a variety of environmental reports. I am again working for a private company on a federal contract and find that since 1975, very little has actually changed with the regulators. I have prepared these comments as a private individual. Any efforts at reducing the requirements of the NEPA are sacrificing for the short-term interests of the few at the costs of the many. A lot of rhetoric has gone on talking about how NEPA is holding up energy development. Not so is my reply. Fund the agencies that need to do the work and it will get done - but you may not always like the result of the analysis.

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